

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STEPHEN D. JONES,

Defendant.

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CASE NO. 8:05CR124

**AMENDED
TENTATIVE FINDINGS**

The Court has received the Revised Presentence Investigation Report ("PSR") in this case and the Defendant's motion for downward departure (Filing No. 87) supported by a brief (Filing No. 53). The parties have not objected to the PSR. The government has adopted the PSR. (Filing No. 47.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

In the motion for downward departure, the Defendant argues that his career offender status overstates the seriousness of his criminal history because the career offender guideline, U.S.S.G. § 4B1.1, applies only due to two felonies committed within four months. The motion is denied. The Court notes a lengthy criminal history beginning at age eighteen. The offenses are numerous, although many did not result in criminal history points. The Court is aware that it has the authority to depart downward, and it declines to do so, concluding that the career offender designation does not overstate the seriousness of the Defendant's criminal history.

IT IS ORDERED:

1. The parties are notified that my tentative findings are that the Presentence Investigation Report is correct in all respects;
2. The Defendant's motion for downward departure (Filing No. 52) is denied;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 7th day of October, 2005.

BY THE COURT:

S/ Laurie Smith Camp
United States District Judge